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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,605	04/16/2001	Peter L. Ciampi	10371/8	3056

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

EXAMINER

FELTEN, DANIEL S

ART UNIT PAPER NUMBER

3624

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/835,605

Applicant(s)

CIAMPI ET AL.

Examiner

Daniel S Felten

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2004.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-56 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernholz (US 5, 819,238) and Luskin et al (US 5,812,987) and Barr et al (US 5,761,442) in view of each other.

As per claims 1-56, Fernholz teaches adjusting a portfolio through dynamically reweighting of the positions in each security in a financial index (see Fernholz, Abstract; fig. 3; col. 4 line 40 to col. 5 line 42); a parametric description of a portfolio and its assets (see fig. 5); a dynamic portfolio management program (see Fernholz, fig. 6); an account management routine (see Fernholz, figs. 6B and 6C); a target portion determination routine (see Fernholz, fig. 7A) also consisting of selecting a security in the security set and calculating temporary proportions for security Fig 7N720) in which all securities in the set are selected (Fig 7N725) and all temporary proportions are normalized to sum to 1(Fig 7N740). Fernholz also teaches a current proportion determination routine (Fig 8) consisting of calculating a portfolio value of account index Fig 8/810) as well as calculating current proportions of portfolio attributable to a security

(Fig 8/850) and performing this for all N securities $1=1 \dots N$. Also, Fernholz teaches a trade determination routine for shares (Fig 9A) which incorporates trading shares, trading indicators, (Fig 9) and updating portfolio value (Fig 9B). Fernholz also teaches a cash control routine (Fig. 10) and which includes cash to be changed (Fig. 10B) and which results in modifying the portfolio value and cash balances (Fig 10B). Fernholz also teaches comparison and display between S&P 500 weighting and dynamic weighting (Fig.1).

Luskin discloses a computer- implemented investment fund management system with dynamic risk adjusted allocation of assets (see Luskin, Abstract; col 2 line 29-col 3 lines);

an investor database (Fig 3/112) and a fund database (Fig 3/110) inside a memory (Fig 3/108); adjusting the investment mix(Fig 4/522) which consists of bonds, oil, gold, gas and other assets of a variety of types (see Luskin col. 2, lines 31-34) through exchange (see Luskin col. 3 lines 56-67) and altering the cash distribution. Luskin teaches funds with different risk characteristics, col. 4 lines1-25) and compositions. Luskin also teaches that the change in distribution of available cash values varies as a function of the risk tolerance col 5, lines 16-19).

Luskin also teaches distributing cash among assets in a fund; (see Luskin, col 6, lines 20-32) as well as adjusting the investment mix as a function of the risk tolerance (see Luskin, col 6 lines 32-46) (Figs 5A-5D); Luskin teaches international equities as portfolios to manage assets (Table I)(see Luskin, col 8 lines 48-62). Luskin also

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teaches strategic asset class weights (col 9 lines 3-21)(Fig 8)(col 9 lines 22-36). Luskin teaches an asset class correlation matrix (col 10 lines 20-30) which determines a portfolio's efficient frontier which determines the optimal mix of a given set of asset classes for any given desired level of risk. Luskin defines an international constraint (col 10 line 43)(col 10 line 50-col 11 line 22).

It would have been obvious to one skilled in the art at the time of the invention to combine Fernholz in view of Luskin to teach the disclosure. The motivation is to teach a means of pricing a financial asset to permit prudent investing through strategic asset allocation in response to changing market conditions as enunciated by Luskin (col 2 lines 18-25).

On the other hand it would have been obvious for an artisan at the time of the invention to combine the features of Luskin into Fernholz because an artisan at the time of the invention would have been motivated to employ the methods in Fernholz to effectively manage an index fund/portfolio in a manner that is likely to consistently yield a return which sufficiently exceeds that provided by a typical passive index fund without the complexities and costs associated with an enhanced index fund.

Moreover, Barr discloses a method for selecting securities based upon a set of historical data (see Barr, fig. 2, col. 6, lines 25+). It would have been obvious to combine the teachings of Barr with those of Fernholz in view of Luskin to teach the disclosure because an artisan at the invention would have been motivated to employ the teachings of Barr to provide an effective and efficient tool for optimizing investment decisions by utilizing the capability of neural nets to take into account complex

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relationships among different and stock specific factors. Thus such a modification would have been considered an obvious expedient well within the ordinary skill in the art.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patents:

Dembo (US 5,148,365)discloses a Scenario Optimization

Johnson et al (US 2002/0116236 A1) Methods and systems for rapid deployment of a valuation system

Foreign Patents:

Gatto (WO 99/56192) discloses a security analyst performance tracking and analysis system and method

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S Felten whose telephone number is (703) 305-0724. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DSF
November 29, 2004

Daniel S Felten
Examiner
Art Unit 3624



**VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600**